



February 26, 2016

ENGROSSED HOUSE BILL No. 1337

DIGEST OF HB 1337 (Updated February 24, 2016 12:26 pm - DI 104)

Citations Affected: IC 16-18; IC 16-21; IC 16-25; IC 16-34; IC 16-41; IC 22-9; IC 23-14; IC 35-46; IC 35-52.

Synopsis: Abortion. Requires the state department of health to develop certain information concerning perinatal hospice care. Requires physicians to provide information about perinatal hospice care to a pregnant woman who is considering an abortion because the unborn child has been diagnosed with a lethal fetal anomaly. Requires documentation as a matter of informed consent to an abortion that the pregnant woman received the required information about perinatal hospice care. Provides that the gender of the fetus and the medical
(Continued next page)

Effective: July 1, 2016.

Cox, Mayfield, Bacon, Judy

(SENATE SPONSORS — YOUNG R MICHAEL, HOLDMAN, BROWN L,
BANKS)

January 12, 2016, read first time and referred to Committee on Public Policy.
January 28, 2016, amended, reported — Do Pass.
February 1, 2016, read second time, amended, ordered engrossed.
February 2, 2016, engrossed. Read third time, passed. Yeas 74, nays 23.

SENATE ACTION

February 8, 2016, read first time and referred to Committee on Health & Provider Services.
February 25, 2016, amended, reported favorably — Do Pass.

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indication by diagnosis code for the fetus and the mother must be reported on the pregnancy termination form for an early pre-viability termination. Prohibits a person from performing an abortion if the person knows that the pregnant woman is seeking the abortion solely because of: (1) the race, color, national origin, ancestry, or sex of the fetus; or (2) a diagnosis or potential diagnosis of the fetus having Down syndrome or any other disability. Provides for disciplinary sanctions and civil liability for wrongful death if a person knowingly or intentionally performs a sex selective abortion or an abortion conducted because of a diagnosis or potential diagnosis of Down syndrome or any other disability. Provides that informed consent for an abortion must be obtained in a private setting. Provides that a pregnant woman considering an abortion must be given the opportunity to view the fetal ultrasound imaging and hear the auscultation of the fetal heart tone at least 18 hours before the abortion is performed and at the same time that informed consent is obtained. Provides that a written agreement between a physician performing an abortion and a physician who has written admitting privileges at a hospital in the county or contiguous county concerning the management of possible complications of the services must be renewed annually. Requires the state department of health (state department) to submit copies of admitting privileges and written agreements between physicians to other hospitals in the county and contiguous counties where abortions are performed. Requires that certain forms must include lines for the signature of the physician or other provider and the professional credentials of the physician or other provider. Provides that a person who knowingly transports an aborted fetus into, or out of, Indiana commits a Class A misdemeanor, unless the aborted fetus is transported for the sole purpose of final disposition. Provides that a miscarried or aborted fetus must be interred or cremated by a facility having possession of the remains. Requires a person or facility having possession of a miscarried or aborted fetus to ensure that the miscarried fetus or aborted fetus is preserved until final disposition occurs. Specifies that: (1) a person is not required to designate a name for the miscarried or aborted fetus; and (2) information submitted with respect to the disposition of a miscarried or aborted fetus that may be used to identify the parent or parents of a miscarried fetus or a pregnant who had an abortion is confidential and must be redacted from any public records maintained under the burial permit law. Specifies that miscarried and aborted fetuses may be cremated by simultaneous cremation. Excludes the final disposition of a miscarried or aborted fetus from the law governing the treatment of infectious or pathological waste. Makes conforming changes. Provides that the performance of an abortion solely because of the race, color, sex, disability, national origin, or ancestry of the fetus or a violation of certain statutes protecting the right of conscience regarding abortion is a discriminatory practice for purposes of the civil rights law. Defines fetal tissue. Prohibits an individual from acquiring, receiving, selling, or transferring fetal tissue. Makes it a Level 5 felony to unlawfully: (1) transfer; and (2) collect fetal tissue. Establishes an exemption for the criminal penalty of unlawful use of an embryo if the transfer or receipt of a fetus was requested in writing by a biological parent for purposes of an autopsy.



February 26, 2016

Second Regular Session of the 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1337

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 16-18-2-1.5, AS AMENDED BY P.L.113-2015,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2016]: Sec. 1.5. (a) "Abortion clinic", for purposes of
4 IC 16-19-3-31, IC 16-21-2, ~~and~~ IC 16-34-3, **and IC 16-41-16**, means
5 a health care provider (as defined in section 163(d)(1) of this chapter)
6 that:
7 (1) performs surgical abortion procedures; or
8 (2) beginning January 1, 2014, provides an abortion inducing
9 drug for the purpose of inducing an abortion.
10 (b) The term does not include the following:
11 (1) A hospital that is licensed as a hospital under IC 16-21-2.
12 (2) An ambulatory outpatient surgical center that is licensed as an
13 ambulatory outpatient surgical center under IC 16-21-2.
14 (3) A health care provider that provides, prescribes, administers,
15 or dispenses an abortion inducing drug to fewer than five (5)

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patients per year for the purposes of inducing an abortion.

SECTION 2. IC 16-18-2-18.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 18.5. "Any other disability", for purposes of IC 16-34, has the meaning set forth in IC 16-34-4-1.**

SECTION 3. IC 16-18-2-100.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 100.5. "Down syndrome", for purposes of IC 16-34, has the meaning set forth in IC 16-34-4-2.**

SECTION 4. IC 16-18-2-128.7, AS ADDED BY P.L.113-2015, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 128.7. "Fetus", for purposes of IC 16-34 and IC 16-41-16, means an unborn child, irrespective of gestational age or the duration of the pregnancy.**

SECTION 5. IC 16-18-2-201.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 201.5. "Lethal fetal anomaly", for purposes of IC 16-25-4.5 and IC 16-34, has the meaning set forth in IC 16-25-4.5-2.**

SECTION 6. IC 16-18-2-237.1, AS ADDED BY P.L.127-2014, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 237.1. "Miscarried fetus", for purposes of IC 16-21-11 and IC 16-41-16, has the meaning set forth in IC 16-21-11-2.**

SECTION 7. IC 16-18-2-273.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 273.5. "Perinatal hospice", for purposes of IC 16-25-4.5 and IC 16-34, has the meaning set forth in IC 16-25-4.5-3.**

SECTION 8. IC 16-18-2-287.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 287.9. "Potential diagnosis", for purposes of IC 16-34, has the meaning set forth in IC 16-34-4-3.**

SECTION 9. IC 16-18-2-328.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 328.6. "Sex selective abortion", for purposes of IC 16-34-4, has the meaning set forth in IC 16-34-4-4.**

SECTION 10. IC 16-21-11-5, AS ADDED BY P.L.127-2014, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 5. (a) Not more than twenty-four (24) hours after a woman has her miscarried fetus expelled or extracted in a health care**



facility, the health care facility shall:

(1) disclose to the parent or parents of the miscarried fetus, both orally and in writing, the parent's right to determine the final disposition of the remains of the miscarried fetus;

(2) provide the parent or parents of the miscarried fetus with written information concerning the available options for disposition of the miscarried fetus **under section 6 of this chapter and IC 16-41-16-7.6;** and

(3) inform the parent or parents of the miscarried fetus of counseling that may be available concerning the death of the miscarried fetus.

(b) The parent or parents of a miscarried fetus shall inform the health care facility of the parent's decision for final disposition of the miscarried fetus after receiving the information required in subsection (a) but before the parent of the miscarried fetus is discharged from the health care facility. The health care facility shall document the parent's decision in the medical record.

SECTION 11. IC 16-21-11-6, AS ADDED BY P.L.127-2014, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 6. (a) If the parent or parents choose a ~~means of~~ **location of** final disposition other than the ~~means location~~ of final disposition that is usual and customary for the health care facility, the parent or parents are responsible for the costs related to the final disposition of the fetus **at the chosen location.**

(b) ~~If the parent or parents choose a means of final disposition that provides for the interment of a miscarried fetus who has a gestational age of at least twenty (20) weeks of age; A health care facility having possession of a miscarried fetus shall provide for the final disposition of the miscarried fetus. The burial transit permit requirements under IC 16-37-3 apply to the final disposition of the miscarried fetus, which must be cremated or interred. However:~~

~~(1) a person is not required to designate a name for the miscarried fetus on the burial transit permit and the space for a name may remain blank; and~~

~~(2) any information submitted under this section that may be used to identify the parent or parents is confidential and must be redacted from any public records maintained under IC 16-37-3.~~

Miscarried fetuses may be cremated by simultaneous cremation.

(c) Notwithstanding any other law, the parent or parents whose miscarried fetus has a gestational age of less than twenty (20) weeks of age may choose a means of final disposition that provides for the



1 cremation or the interment of the miscarried fetus. If the parent or
 2 parents choose the cremation or interment of the miscarried fetus, The
 3 local health officer shall provide the person in charge of interment with
 4 a permit for the disposition of the body. A certificate of stillbirth is not
 5 required to be issued for a final disposition ~~under this subsection~~ of a
 6 **miscarried fetus having a gestational age of less than twenty (20)**
 7 **weeks.**

8 (d) IC 23-14-31-26, IC 23-14-55-2, IC 25-15-9-18, and
 9 IC 29-2-19-17 concerning the authorization of disposition of human
 10 remains apply to this section.

11 SECTION 12. IC 16-25-4.5 IS ADDED TO THE INDIANA CODE
 12 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2016]:

14 **Chapter 4.5. Perinatal Hospice**

15 **Sec. 1. The purpose of this chapter is to ensure that:**

16 (1) **women considering abortion after receiving a diagnosis of**
 17 **a lethal fetal anomaly are informed of the availability of**
 18 **perinatal hospice care; and**

19 (2) **women choosing abortion after receiving a diagnosis of a**
 20 **lethal fetal anomaly are making a fully informed decision.**

21 **Sec. 2. As used in this chapter, "lethal fetal anomaly" means a**
 22 **fetal condition diagnosed before birth that, if the pregnancy results**
 23 **in a live birth, will with reasonable certainty result in the death of**
 24 **the child not more than three (3) months after the child's birth.**

25 **Sec. 3. As used in this chapter, "perinatal hospice" means the**
 26 **provision of comprehensive, supportive care to a pregnant woman**
 27 **and her family beginning with the diagnosis of a lethal fetal**
 28 **anomaly and continuing through the live birth and death of the**
 29 **woman's child as a result of the lethal fetal anomaly. The term**
 30 **includes counseling and medical care provided by maternal-fetal**
 31 **medical specialists, obstetricians, neonatologists, anesthesia**
 32 **specialists, specialty nurses, clergy, social workers, and others that**
 33 **are focused on alleviating fear and ensuring that the woman and**
 34 **her family experience the life and death of the child in a**
 35 **comfortable and supportive environment.**

36 **Sec. 4. (a) The state department shall develop a perinatal**
 37 **hospice brochure and post the perinatal hospice brochure on the**
 38 **state department's Internet web site.**

39 **(b) The perinatal brochure developed under this section must**
 40 **include the following:**

41 (1) **A description of the health care and other services**
 42 **available from perinatal hospice.**



(2) Information that medical assistance benefits may be available for prenatal care, childbirth, and perinatal hospice.

(3) Information regarding telephone 211 dialing code services for accessing grief counseling and other human services as described in IC 8-1-19.5, and the types of services that are available through this service.

Sec. 5. The state department shall develop and regularly update a list of all perinatal hospice providers and programs in Indiana. The state department may include on the list perinatal hospice providers and programs in other states that provide care to Indiana residents. The state department shall post the list of perinatal hospice providers and programs on the state department's Internet web site.

Sec. 6. (a) The state department shall develop a form on which a pregnant woman certifies, at the time of receiving a diagnosis that the pregnant woman's unborn child has a lethal fetal anomaly, that the pregnant woman has received the following:

(1) A copy of the perinatal hospice brochure developed under this chapter.

(2) A list of the perinatal hospice providers and programs developed under section 5 of this chapter.

(b) The provider diagnosing the pregnant woman's unborn child with the lethal fetal anomaly shall, at the time of diagnosis:

(1) provide the pregnant woman with a written copy of:

(A) the perinatal brochure developed under this chapter; and

(B) the certification form developed by the state department under subsection (a); and

(2) have the pregnant woman complete the certification form.

Sec. 7. This chapter is severable as specified in IC 1-1-1-8.

SECTION 13. IC 16-34-2-1, AS AMENDED BY P.L.136-2013, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. (a) Abortion shall in all instances be a criminal act, except when performed under the following circumstances:

(1) **Except as prohibited in IC 16-34-4**, during the first trimester of pregnancy for reasons based upon the professional, medical judgment of the pregnant woman's physician if:

(A) the abortion is performed by the physician;

(B) the woman submitting to the abortion has filed her consent with her physician. However, if in the judgment of the physician the abortion is necessary to preserve the life of the woman, her consent is not required; and



1 (C) the woman submitting to the abortion has filed with her
 2 physician the written consent of her parent or legal guardian
 3 if required under section 4 of this chapter.

4 However, an abortion inducing drug may not be dispensed,
 5 prescribed, administered, or otherwise given to a pregnant woman
 6 after nine (9) weeks of postfertilization age unless the Food and
 7 Drug Administration has approved the abortion inducing drug to
 8 be used for abortions later than nine (9) weeks of postfertilization
 9 age. A physician shall examine a pregnant woman in person
 10 before prescribing or dispensing an abortion inducing drug. As
 11 used in this subdivision, "in person" does not include the use of
 12 telehealth or telemedicine services.

13 (2) **Except as prohibited by IC 16-34-4**, for an abortion
 14 performed by a surgical procedure, after the first trimester of
 15 pregnancy and before the earlier of viability of the fetus or twenty
 16 (20) weeks of postfertilization age, for reasons based upon the
 17 professional, medical judgment of the pregnant woman's
 18 physician if:

19 (A) all the circumstances and provisions required for legal
 20 abortion during the first trimester are present and adhered to;
 21 and

22 (B) the abortion is performed in a hospital or ambulatory
 23 outpatient surgical center (as defined in IC 16-18-2-14).

24 (3) **Except as provided in subsection (b) or as prohibited by**
 25 **IC 16-34-4**, and for an abortion performed by a surgical
 26 procedure, at the earlier of viability of the fetus or twenty (20)
 27 weeks of postfertilization age and any time after, for reasons
 28 based upon the professional, medical judgment of the pregnant
 29 woman's physician if:

30 (A) all the circumstances and provisions required for legal
 31 abortion before the earlier of viability of the fetus or twenty
 32 (20) weeks of postfertilization age are present and adhered to;

33 (B) the abortion is performed in compliance with section 3 of
 34 this chapter; and

35 (C) before the abortion the attending physician shall certify in
 36 writing to the hospital in which the abortion is to be
 37 performed, that in the attending physician's professional,
 38 medical judgment, after proper examination and review of the
 39 woman's history, the abortion is necessary to prevent a
 40 substantial permanent impairment of the life or physical health
 41 of the pregnant woman. All facts and reasons supporting the
 42 certification shall be set forth by the physician in writing and



1 attached to the certificate.

2 (b) A person may not knowingly or intentionally perform a partial
3 birth abortion unless a physician reasonably believes that:

4 (1) performing the partial birth abortion is necessary to save the
5 mother's life; and

6 (2) no other medical procedure is sufficient to save the mother's
7 life.

8 SECTION 14. IC 16-34-2-1.1, AS AMENDED BY P.L.113-2015,
9 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2016]: Sec. 1.1. (a) An abortion shall not be performed except
11 with the voluntary and informed consent of the pregnant woman upon
12 whom the abortion is to be performed. Except in the case of a medical
13 emergency, consent to an abortion is voluntary and informed only if the
14 following conditions are met:

15 (1) At least eighteen (18) hours before the abortion and in the
16 **private, not group**, presence of the pregnant woman, the
17 physician who is to perform the abortion, the referring physician
18 or a physician assistant (as defined in IC 25-27.5-2-10), an
19 advanced practice nurse (as defined in IC 25-23-1-1(b)), or a
20 certified nurse midwife (as defined in IC 34-18-2-6.5) to whom
21 the responsibility has been delegated by the physician who is to
22 perform the abortion or the referring physician has informed the
23 pregnant woman orally and in writing of the following:

24 (A) The name of the physician performing the abortion, the
25 physician's medical license number, and an emergency
26 telephone number where the physician or the physician's
27 designee may be contacted on a twenty-four (24) hour a day,
28 seven (7) day a week basis.

29 (B) That follow-up care by the physician or the physician's
30 designee (if the designee is licensed under IC 25-22.5) ~~and~~ is
31 available on an appropriate and timely basis when clinically
32 necessary.

33 (C) The nature of the proposed procedure or information
34 concerning the abortion inducing drug.

35 (D) Objective scientific information of the risks of and
36 alternatives to the procedure or the use of an abortion inducing
37 drug, including:

38 (i) the risk of infection and hemorrhage;

39 (ii) the potential danger to a subsequent pregnancy; and

40 (iii) the potential danger of infertility.

41 (E) That human physical life begins when a human ovum is
42 fertilized by a human sperm.



(F) The probable gestational age of the fetus at the time the abortion is to be performed, including:

- (i) a picture of a fetus;
- (ii) the dimensions of a fetus; and
- (iii) relevant information on the potential survival of an unborn fetus;

at this stage of development.

(G) That objective scientific information shows that a fetus can feel pain at or before twenty (20) weeks of postfertilization age.

(H) The medical risks associated with carrying the fetus to term.

(I) The availability of fetal ultrasound imaging and auscultation of fetal heart tone services to enable the pregnant woman to view the image and hear the heartbeat of the fetus and how to obtain access to these services.

(J) That the pregnancy of a child less than fifteen (15) years of age may constitute child abuse under Indiana law if the act included an adult and must be reported to the department of child services or the local law enforcement agency under IC 31-33-5.

(K) That Indiana does not allow a fetus to be aborted solely because of the fetus's race, color, national origin, ancestry, sex, or diagnosis or potential diagnosis of the fetus having Down syndrome or any other disability.

(2) At least eighteen (18) hours before the abortion, the pregnant woman will be informed orally and in writing of the following:

(A) That medical assistance benefits may be available for prenatal care, childbirth, and neonatal care from the county office of the division of family resources.

(B) That the father of the unborn fetus is legally required to assist in the support of the child. In the case of rape, the information required under this clause may be omitted.

(C) That adoption alternatives are available and that adoptive parents may legally pay the costs of prenatal care, childbirth, and neonatal care.

(D) That there are physical risks to the pregnant woman in having an abortion, both during the abortion procedure and after.

(E) That Indiana has enacted the safe haven law under IC 31-34-2.5.

(F) The:



(i) Internet web site address of the state department of health's web site; and

(ii) description of the information that will be provided on the web site and that are;

described in section 1.5 of this chapter.

(G) For the facility in which the abortion is to be performed, an emergency telephone number that is available and answered on a twenty-four (24) hour a day, seven (7) day a week basis.

(H) On a form developed by the state department and as described in IC 16-34-3, that the pregnant woman has a right to determine the final disposition of the remains of the aborted fetus.

(I) On a form developed by the state department, information concerning the available options for disposition of the aborted fetus.

(J) On a form developed by the state department, information concerning any counseling that is available to a pregnant woman after having an abortion.

The state department shall develop and distribute the forms required by clauses (H) through (J).

(3) The pregnant woman certifies in writing, on a form developed by the state department, before the abortion is performed, that:

(A) the information required by subdivisions (1) and (2) has been provided to the pregnant woman;

(B) the pregnant woman has been offered by the provider the opportunity to view the fetal ultrasound imaging and hear the auscultation of the fetal heart tone if the fetal heart tone is audible and that the woman has:

(i) viewed or refused to view the offered fetal ultrasound imaging; and

(ii) listened to or refused to listen to the offered auscultation of the fetal heart tone if the fetal heart tone is audible; and

(C) the pregnant woman has been given a written copy of the printed materials described in section 1.5 of this chapter.

(4) At least eighteen (18) hours before the abortion and in the presence of the pregnant woman, the physician who is to perform the abortion, the referring physician or a physician assistant (as defined in IC 25-27.5-2-10), an advanced practice nurse (as defined in IC 25-23-1-1(b)), or a midwife (as defined in IC 34-18-2-19) to whom the responsibility has been delegated by the physician who is to perform the abortion or the referring



physician has provided the pregnant woman with a color copy of the informed consent brochure described in section 1.5 of this chapter by printing the informed consent brochure from the state department's Internet web site and including the following information on the back cover of the brochure:

(A) The name of the physician performing the abortion and the physician's medical license number.

(B) An emergency telephone number where the physician or the physician's designee may be contacted twenty-four (24) hours a day, seven (7) days a week.

(C) A statement that follow-up care by the physician or the physician's designee who is licensed under IC 25-22.5 is available on an appropriate and timely basis when clinically necessary.

(b) (5) At least eighteen (18) hours before an abortion is performed and at the same time that the pregnant woman receives the information required by subdivision (1), the provider shall perform, and the pregnant woman shall view, the fetal ultrasound imaging and hear the auscultation of the fetal heart tone if the fetal heart tone is audible unless the pregnant woman certifies in writing, on a form developed by the state department, before the abortion is performed, that the pregnant woman:

(1) (A) does not want to view the fetal ultrasound imaging; and

(2) (B) does not want to listen to the auscultation of the fetal heart tone if the fetal heart tone is audible.

(b) This subsection applies to a pregnant woman whose unborn child has been diagnosed with a lethal fetal anomaly. The requirements of this subsection are in addition to the other requirements of this section. At least eighteen (18) hours before an abortion is performed on the pregnant woman, the physician who will perform the abortion shall:

(1) orally and in person, inform the pregnant woman of the availability of perinatal hospice services; and

(2) provide the pregnant woman copies of the perinatal hospice brochure developed by the state department under IC 16-25-4.5-4 and the list of perinatal hospice providers and programs developed under IC 16-25-4.5-5, by printing the perinatal hospice brochure and list of perinatal hospice providers from the state department's Internet web site.

(c) If a pregnant woman described in subsection (b) chooses to have an abortion rather than continuing the pregnancy in perinatal



1 hospice care, the pregnant woman shall certify in writing, on a
 2 form developed by the state department under IC 16-25-4.5-6, at
 3 least eighteen (18) hours before the abortion is performed, that the
 4 pregnant woman has been provided the information described in
 5 subsection (b) in the manner required by subsection (b).

6 SECTION 15. IC 16-34-2-4.5, AS AMENDED BY P.L.98-2014,
 7 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2016]: Sec. 4.5. (a) A physician may not perform an abortion
 9 unless the physician:

- 10 (1) has admitting privileges in writing at a hospital located in the
- 11 county where abortions are provided or in a contiguous county; or
- 12 (2) has entered into a written agreement with a physician who has
- 13 written admitting privileges at a hospital in the county or
- 14 contiguous county concerning the management of possible
- 15 complications of the services provided.

16 **A written agreement described in subdivision (2) must be renewed**
 17 **annually.**

18 (b) A physician who performs an abortion shall notify the patient of
 19 the location of the hospital at which the physician or a physician with
 20 whom the physician has entered into an agreement under subsection
 21 (a)(2) has admitting privileges and where the patient may receive
 22 follow-up care by the physician if complications arise.

23 (c) An abortion clinic shall:

- 24 (1) keep at the abortion clinic a copy of the admitting privileges
- 25 of a physician described in subsection (a)(1) and (a)(2); and
- 26 (2) submit a copy of the admitting privileges described in
- 27 subdivision (1) to the state department as part of the abortion
- 28 clinic's licensure. The state department shall verify the validity of
- 29 the admitting privileges document. The state department shall
- 30 remove any identifying information from the admitting privileges
- 31 document before releasing the document under IC 5-14-3.

32 **(d) The state department shall annually submit a copy of the**
 33 **admitting privileges described in subsection (a)(1) and a copy of**
 34 **the written agreement described in subsection (a)(2) to:**

- 35 **(1) each hospital located in the county in which the hospital**
- 36 **granting the admitting privileges described in subsection (a)**
- 37 **is located; and**
- 38 **(2) each hospital located in a county that is contiguous to the**
- 39 **county described in subdivision (1);**

40 **where abortions are performed.**

41 ~~(d)~~ (e) The state department shall confirm to a member of the
 42 public, upon request, that the admitting privileges required to be



submitted under this section for an abortion clinic have been received by the state department.

(e) (f) Notwithstanding IC 5-14-3-6 and IC 5-14-3-6.5, this section only allows for the redaction of information that is described in subsection (c). This section does not allow the state department to limit the disclosure of information in other public documents.

SECTION 16. IC 16-34-2-5, AS AMENDED BY P.L.92-2015, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 5. (a) Every health care provider who performs a surgical abortion or provides, prescribes, administers, or dispenses an abortion inducing drug for the purposes of inducing an abortion shall report the performance of the abortion or the provision, prescribing, administration, or dispensing of an abortion inducing drug on a form drafted by the state department, the purpose and function of which shall be the improvement of maternal health and life through the compilation of relevant maternal life and health factors and data, and a further purpose and function shall be to monitor all abortions performed in Indiana to assure the abortions are done only under the authorized provisions of the law. For each abortion performed and abortion inducing drug provided, prescribed, administered, or dispensed, the report shall include, among other things, the following:

- (1) The age of the patient.
- (2) The date and location the abortion was performed or the abortion inducing drug was provided, prescribed, administered, or dispensed.
- (3) The health care provider's full name and address, including the name of the physicians performing the abortion or providing, prescribing, administering, or dispensing the abortion inducing drug.
- (4) The name of the father if known.
- (5) The age of the father, or the approximate age of the father if the father's age is unknown.
- (6) **The following information concerning the abortion or the provision, prescribing, administration, or dispensing of the abortion inducing drug:**
 - (A) **The postfertilization age of the fetus.**
 - (B) **The manner in which the postfertilization age was determined. and,**
 - (C) **The gender of the fetus, if detectable.**
 - (D) **Whether the fetus has been diagnosed with or has a potential diagnosis of having Down syndrome or any other disability.**



- 1 (E) If after the earlier of the time the fetus obtains viability or
 2 the time the postfertilization age of the fetus is at least twenty
 3 (20) weeks, the medical reason for the performance of the
 4 abortion or the provision, prescribing, administration, or
 5 dispensing of the abortion inducing drug.
 6 (7) For a surgical abortion, the medical procedure used for the
 7 abortion and, if the fetus was viable or had a postfertilization age
 8 of at least twenty (20) weeks:
 9 (A) whether the procedure, in the reasonable judgment of the
 10 health care provider, gave the fetus the best opportunity to
 11 survive; and
 12 (B) the basis for the determination that the pregnant woman
 13 had a condition described in this chapter that required the
 14 abortion to avert the death of or serious impairment to the
 15 pregnant woman.
 16 (8) For a nonsurgical abortion, the precise drugs provided,
 17 prescribed, administered, or dispensed, and the means of delivery
 18 of the drugs to the patient.
 19 **(9) For an early pre-viability termination, the medical**
 20 **indication by diagnosis code for the fetus and the mother.**
 21 ~~(9)~~ **(10)** The mother's obstetrical history, including dates of other
 22 abortions, if any.
 23 ~~(10)~~ **(11)** The results of pathological examinations if performed.
 24 ~~(11)~~ **(12)** For a surgical abortion, whether the fetus was delivered
 25 alive, and if so, how long the fetus lived.
 26 ~~(12)~~ **(13)** Records of all maternal deaths occurring at the location
 27 where the abortion was performed or the abortion inducing drug
 28 was provided, prescribed, administered, or dispensed.
 29 ~~(13)~~ **(14)** The date the form was transmitted to the state
 30 department and, if applicable, separately to the department of
 31 child services.
 32 (b) The health care provider shall complete the form provided for in
 33 subsection (a) and shall transmit the completed form to the state
 34 department, in the manner specified on the form, not later than July 30
 35 for each abortion occurring in the first six (6) months of that year and
 36 not later than January 30 for each abortion occurring in the last six (6)
 37 months of the preceding year. However, if an abortion is for a female
 38 who is less than fourteen (14) years of age, the health care provider
 39 shall transmit the form to the state department of health and separately
 40 to the department of child services within three (3) days after the
 41 abortion is performed.
 42 (c) The dates supplied on the form may not be redacted for any



reason before the form is transmitted as provided in this section.

(d) Each failure to complete or timely transmit a form, as required under this section, for each abortion performed or abortion inducing drug that was provided, prescribed, administered, or dispensed, is a Class B misdemeanor.

(e) Not later than June 30 of each year, the state department shall compile a public report providing the following:

(1) Statistics for the previous calendar year from the information submitted under this section.

(2) Statistics for previous calendar years compiled by the state department under this subsection, with updated information for the calendar year that was submitted to the state department after the compilation of the statistics.

The state department shall ensure that no identifying information of a pregnant woman is contained in the report.

SECTION 17. IC 16-34-2-5.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 5.1. Each form or other written document that must be completed or provided by a physician or other provider under this chapter, including a signed copy retained in the pregnant woman's patient file, must include the following:**

(1) A line for the signature of the physician or other provider.

(2) A line for the professional credentials and license number of the physician or other provider.

SECTION 18. IC 16-34-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 6. **(a)** No experiments except pathological examinations may be conducted on any fetus aborted under this chapter. ~~nor may any fetus so aborted be transported out of Indiana for experimental purposes.~~ A person who conducts such an experiment ~~or so transports such a fetus~~ commits a Class A misdemeanor.

(b) Except as provided by subsection (c), a person who knowingly transports an aborted fetus into, or out of, Indiana commits a Class A misdemeanor.

(c) A person may transport an aborted fetus into, or out of, Indiana for the sole purpose of conducting the final disposition of the aborted fetus by cremation or interment under IC 16-34-3-4.

SECTION 19. IC 16-34-3-2, AS ADDED BY P.L.113-2015, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 2. (a) A pregnant woman who has an abortion under this article has the right to determine the final disposition of the aborted fetus.



(b) After receiving the notification and information required by ~~IC 16-34-2-1.1(a)(2)(H)~~ **IC 16-34-2-1.1(2)(H)** and ~~IC 16-34-2-1.1(a)(2)(I)~~, **IC 16-34-2-1.1(2)(I)**, the pregnant woman shall inform the abortion clinic or the health care facility:

(1) in writing; and

(2) on a form prescribed by the state department; of the pregnant woman's decision for final disposition of the aborted fetus before the aborted fetus may be discharged from the abortion clinic or the health care facility.

(c) If the pregnant woman is a minor, the abortion clinic or health care facility shall obtain parental consent in the disposition of the aborted fetus unless the minor has received a waiver of parental consent under IC 16-34-2-4.

(d) The abortion clinic or the health care facility shall document the pregnant woman's decision concerning disposition of the aborted fetus in the pregnant woman's medical record.

SECTION 20. IC 16-34-3-3, AS ADDED BY P.L.113-2015, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 3. If the pregnant woman chooses a ~~means~~ **location** for final disposition ~~that is not required by law or by rule of~~ **other than the location of final disposition that is usual and customary** for an abortion clinic or a health care facility, the pregnant woman is responsible for the costs related to the final disposition of the aborted fetus **at the chosen location**.

SECTION 21. IC 16-34-3-4, AS ADDED BY P.L.113-2015, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 4. (a) **An abortion clinic or health care facility having possession of an aborted fetus shall provide for the final disposition of the aborted fetus.** The burial transit permit requirements of IC 16-37-3 apply to the final disposition of an aborted fetus, ~~with a gestational age of at least twenty (20) weeks of age, which~~ **must be interred or cremated. However:**

(1) **a person is not required to designate a name for the aborted fetus on the burial transit permit and the space for a name may remain blank; and**

(2) **any information submitted under this section that may be used to identify the pregnant woman is confidential and must be redacted from any public records maintained under IC 16-37-3.**

Aborted fetuses may be cremated by simultaneous cremation.

(b) ~~A pregnant woman may decide to cremate or inter an aborted fetus with a gestational age of less than twenty (20) weeks of age.~~



(e) (b) The local health officer shall issue a permit for the disposition of the aborted fetus to the person in charge of interment for the interment of ~~an~~ the aborted fetus. ~~described in subsection (b):~~ A certificate of stillbirth is not required to be issued for an aborted fetus with a gestational age of less than twenty (20) weeks of age.

(c) IC 23-14-31-26, IC 23-14-55-2, IC 25-15-9-18, and IC 29-2-19-17 concerning the authorization of disposition of human remains apply to this section.

SECTION 22. IC 16-34-4 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]:

Chapter 4. Sex Selective and Disability Abortion Ban

Sec. 1. (a) As used in this chapter, "any other disability" means any disease, defect, or disorder that is genetically inherited. The term includes the following:

- (1) A physical disability.
- (2) A mental or intellectual disability.
- (3) A physical disfigurement.
- (4) Scoliosis.
- (5) Dwarfism.
- (6) Down syndrome.
- (7) Albinism.
- (8) Amelia.
- (9) A physical or mental disease.

(b) The term does not include a lethal fetal anomaly.

Sec. 2. As used in this chapter, "Down syndrome" means a chromosomal disorder associated with an extra chromosome 21 or an effective trisomy for chromosome 21.

Sec. 3. As used in this chapter, "potential diagnosis" refers to the presence of some risk factors that indicate that a health problem may occur.

Sec. 4. As used in this chapter, "sex selective abortion" means an abortion that is performed solely because of the sex of the fetus.

Sec. 5. (a) A person may not intentionally perform or attempt to perform an abortion before the earlier of viability of the fetus or twenty (20) weeks of postfertilization age if the person knows that the pregnant woman is seeking a sex selective abortion.

(b) A person may not intentionally perform or attempt to perform an abortion after viability of the fetus or twenty (20) weeks of postfertilization age if the person knows that the pregnant woman is seeking a sex selective abortion.

(c) This section is severable as specified in IC 1-1-1-8.



1 **Sec. 6. (a) A person may not intentionally perform or attempt to**
 2 **perform an abortion before the earlier of viability of the fetus or**
 3 **twenty (20) weeks of postfertilization age if the person knows that**
 4 **the pregnant woman is seeking the abortion solely because the**
 5 **fetus has been diagnosed with Down syndrome or has a potential**
 6 **diagnosis of Down syndrome.**

7 **(b) A person may not intentionally perform or attempt to**
 8 **perform an abortion after viability of the fetus or twenty (20)**
 9 **weeks of postfertilization age if the person knows that the pregnant**
 10 **woman is seeking the abortion solely because the fetus has been**
 11 **diagnosed with Down syndrome or has a potential diagnosis of**
 12 **Down syndrome.**

13 **(c) This section is severable as specified in IC 1-1-1-8.**

14 **Sec. 7. (a) A person may not intentionally perform or attempt to**
 15 **perform an abortion before the earlier of viability of the fetus or**
 16 **twenty (20) weeks of postfertilization age if the person knows that**
 17 **the pregnant woman is seeking the abortion solely because the**
 18 **fetus has been diagnosed with any other disability or has a**
 19 **potential diagnosis of any other disability.**

20 **(b) A person may not intentionally perform or attempt to**
 21 **perform an abortion after viability of the fetus or twenty (20)**
 22 **weeks of postfertilization age if the person knows that the pregnant**
 23 **woman is seeking the abortion solely because the fetus has been**
 24 **diagnosed with any other disability or has a potential diagnosis of**
 25 **any other disability.**

26 **(c) This section is severable as specified in IC 1-1-1-8.**

27 **Sec. 8. (a) A person may not intentionally perform or attempt to**
 28 **perform an abortion before the earlier of viability of the fetus or**
 29 **twenty (20) weeks of postfertilization age if the person knows that**
 30 **the pregnant woman is seeking the abortion solely because of the**
 31 **race, color, national origin, or ancestry of the fetus.**

32 **(b) A person may not intentionally perform or attempt to**
 33 **perform an abortion after viability of the fetus or twenty (20)**
 34 **weeks of postfertilization age if the person knows that the pregnant**
 35 **woman is seeking the abortion solely because of the race, color,**
 36 **national origin, or ancestry of the fetus.**

37 **(c) This section is severable as specified in IC 1-1-1-8.**

38 **Sec. 9. (a) A person who knowingly or intentionally performs an**
 39 **abortion in violation of this chapter may be subject to:**

40 **(1) disciplinary sanctions under IC 25-1-9; and**

41 **(2) civil liability for wrongful death.**

42 **(b) A pregnant woman upon whom an abortion is performed in**



1 **violation of this chapter may not be prosecuted for violating or**
 2 **conspiring to violate this chapter.**

3 SECTION 23. IC 16-41-16-1 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. (a) This chapter
 5 applies to persons and facilities that handle infectious waste, including
 6 the following:

- 7 (1) Hospitals.
- 8 (2) Ambulatory surgical facilities.
- 9 (3) Medical laboratories.
- 10 (4) Diagnostic laboratories.
- 11 (5) Blood centers.
- 12 (6) Pharmaceutical companies.
- 13 (7) Academic research laboratories.
- 14 (8) Industrial research laboratories.
- 15 (9) Health facilities.
- 16 (10) Offices of health care providers.
- 17 (11) Diet or health care clinics.
- 18 (12) Offices of veterinarians.
- 19 (13) Veterinary hospitals.
- 20 (14) Emergency medical services providers.
- 21 (15) Mortuaries.

22 **(16) Abortion clinics.**

23 (b) Except as provided in sections 2, 4, and 7.5 of this chapter, this
 24 chapter does not apply to:

- 25 (1) home health agencies; or
- 26 (2) hospice services delivered in the home of a hospice patient.

27 SECTION 24. IC 16-41-16-4 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 4. (a) Except as
 29 provided in ~~subsection~~ **subsections (c) and (d)**, as used in this chapter,
 30 "infectious waste" means waste that epidemiologic evidence indicates
 31 is capable of transmitting a dangerous communicable disease (as
 32 defined by rule adopted under IC 16-41-2-1).

33 (b) The term includes the following:

- 34 (1) Pathological wastes.
- 35 (2) Biological cultures and associated biologicals.
- 36 (3) Contaminated sharps.
- 37 (4) Infectious agent stock and associated biologicals.
- 38 (5) Blood and blood products in liquid or semiliquid form.
- 39 (6) Laboratory animal carcasses, body parts, and bedding.
- 40 (7) Wastes (as described under section 8 of this chapter).

41 (c) "Infectious waste", as the term applies to a:

- 42 (1) home health agency; or



(2) hospice service delivered in the home of a hospice patient; includes only contaminated sharps.

(d) The term does not include an aborted fetus or a miscarried fetus.

SECTION 25. IC 16-41-16-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 5. As used in this chapter, "pathological waste" includes:

- (1) tissues;
- (2) organs;
- (3) body parts; and
- (4) blood or body fluids in liquid or semiliquid form; that are removed during surgery, biopsy, or autopsy. **The term does not include an aborted fetus or a miscarried fetus.**

SECTION 26. IC 16-41-16-7.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 7.6. (a) This section applies to a person or facility possessing either an aborted fetus or a miscarried fetus.**

(b) Within ten (10) business days after a miscarriage occurs or an abortion is performed, a person or facility described in subsection (a) shall:

- (1) conduct the final disposition of a miscarried fetus or an aborted fetus in the manner required by IC 16-21-11-6 or IC 16-34-3-4; or**
- (2) ensure that the miscarried fetus or aborted fetus is preserved until final disposition under IC 16-21-11-6 or IC 16-34-3-4 occurs.**

SECTION 27. IC 22-9-1-3, AS AMENDED BY P.L.136-2014, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 3. As used in this chapter:

(a) "Person" means one (1) or more individuals, partnerships, associations, organizations, limited liability companies, corporations, labor organizations, cooperatives, legal representatives, trustees, trustees in bankruptcy, receivers, and other organized groups of persons.

(b) "Commission" means the civil rights commission created under section 4 of this chapter.

(c) "Director" means the director of the civil rights commission.

(d) "Deputy director" means the deputy director of the civil rights commission.

(e) "Commission attorney" means the deputy attorney general, such assistants of the attorney general as may be assigned to the



commission, or such other attorney as may be engaged by the commission.

(f) "Consent agreement" means a formal agreement entered into in lieu of adjudication.

(g) "Affirmative action" means those acts that the commission determines necessary to assure compliance with the Indiana civil rights law.

(h) "Employer" means the state or any political or civil subdivision thereof and any person employing six (6) or more persons within the state, except that the term "employer" does not include:

(1) any nonprofit corporation or association organized exclusively for fraternal or religious purposes;

(2) any school, educational, or charitable religious institution owned or conducted by or affiliated with a church or religious institution; or

(3) any exclusively social club, corporation, or association that is not organized for profit.

(i) "Employee" means any person employed by another for wages or salary. However, the term does not include any individual employed:

(1) by the individual's parents, spouse, or child; or

(2) in the domestic service of any person.

(j) "Labor organization" means any organization that exists for the purpose in whole or in part of collective bargaining or of dealing with employers concerning grievances, terms, or conditions of employment or for other mutual aid or protection in relation to employment.

(k) "Employment agency" means any person undertaking with or without compensation to procure, recruit, refer, or place employees.

(l) "Discriminatory practice" means:

(1) the exclusion of a person from equal opportunities because of race, religion, color, sex, disability, national origin, ancestry, or status as a veteran;

(2) a system that excludes persons from equal opportunities because of race, religion, color, sex, disability, national origin, ancestry, or status as a veteran;

(3) the promotion of racial segregation or separation in any manner, including but not limited to the inducing of or the attempting to induce for profit any person to sell or rent any dwelling by representations regarding the entry or prospective entry in the neighborhood of a person or persons of a particular race, religion, color, sex, disability, national origin, or ancestry;

or

(4) a violation of IC 22-9-5 that occurs after July 25, 1992, and is



committed by a covered entity (as defined in IC 22-9-5-4);

(5) the performance of an abortion solely because of the race, color, sex, disability, national origin, or ancestry of the fetus; or

(6) a violation of any of the following statutes protecting the right of conscience regarding abortion:

(A) IC 16-34-1-4.

(B) IC 16-34-1-5.

(C) IC 16-34-1-6.

Every discriminatory practice relating to the acquisition or sale of real estate, education, public accommodations, employment, or the extending of credit (as defined in IC 24-4.5-1-301.5) shall be considered unlawful unless it is specifically exempted by this chapter.

(m) "Public accommodation" means any establishment that caters or offers its services or facilities or goods to the general public.

(n) "Complainant" means:

(1) any individual charging on the individual's own behalf to have been personally aggrieved by a discriminatory practice; or

(2) the director or deputy director of the commission charging that a discriminatory practice was committed against a person (other than the director or deputy director) or a class of people, in order to vindicate the public policy of the state (as defined in section 2 of this chapter).

(o) "Complaint" means any written grievance that is:

(1) sufficiently complete and filed by a complainant with the commission; or

(2) filed by a complainant as a civil action in the circuit or superior court having jurisdiction in the county in which the alleged discriminatory practice occurred.

The original of any complaint filed under subdivision (1) shall be signed and verified by the complainant.

(p) "Sufficiently complete" refers to a complaint that includes:

(1) the full name and address of the complainant;

(2) the name and address of the respondent against whom the complaint is made;

(3) the alleged discriminatory practice and a statement of particulars thereof;

(4) the date or dates and places of the alleged discriminatory practice and if the alleged discriminatory practice is of a continuing nature the dates between which continuing acts of discrimination are alleged to have occurred; and

(5) a statement as to any other action, civil or criminal, instituted



in any other form based upon the same grievance alleged in the complaint, together with a statement as to the status or disposition of the other action.

No complaint shall be valid unless filed within one hundred eighty (180) days from the date of the occurrence of the alleged discriminatory practice.

(q) "Sex" as it applies to segregation or separation in this chapter applies to all types of employment, education, public accommodations, and housing. However:

(1) it shall not be a discriminatory practice to maintain separate restrooms;

(2) it shall not be an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or for an employer, labor organization, or joint labor management committee controlling apprenticeship or other training or retraining programs to admit or employ any other individual in any program on the basis of sex in those certain instances where sex is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise; and

(3) it shall not be a discriminatory practice for a private or religious educational institution to continue to maintain and enforce a policy of admitting students of one (1) sex only.

(r) "Disabled" or "disability" means the physical or mental condition of a person that constitutes a substantial disability. In reference to employment under this chapter, "disabled or disability" also means the physical or mental condition of a person that constitutes a substantial disability unrelated to the person's ability to engage in a particular occupation.

(s) "Veteran" means:

- (1) a veteran of the armed forces of the United States;
- (2) a member of the Indiana National Guard; or
- (3) a member of a reserve component.

SECTION 28. IC 23-14-31-39 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 39. (a) **Except as provided in IC 16-21-11-6 and IC 16-34-3-4**, a crematory authority shall not perform the simultaneous cremation of the human remains of more than one (1) individual within the same cremation chamber unless it has obtained the prior written consent of the authorizing agents.



(b) Subsection (a) does not prevent the simultaneous cremation within the same cremation chamber of body parts delivered to the crematory authority from multiple sources, or the use of cremation equipment that contains more than one (1) cremation chamber.

SECTION 29. IC 35-46-5-1, AS AMENDED BY P.L.158-2013, SECTION 570, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. ~~(a) As used in this section, "fetal tissue" means tissue from an infant or a fetus who is stillborn or aborted.~~

~~(b)~~ (a) As used in this section, "human organ" means the kidney, liver, heart, lung, cornea, eye, bone marrow, bone, pancreas, or skin of a human body.

~~(c)~~ (b) As used in this section, "item of value" means money, real estate, funeral related services, and personal property. "Item of value" does not include:

(1) the reasonable payments associated with the removal, transportation, implantation, processing, preservation, quality control, and storage of a human organ; or

(2) the reimbursement of travel, housing, lost wages, and other expenses incurred by the donor of a human organ related to the donation of the human organ.

~~(d)~~ (c) A person who intentionally acquires, receives, sells, or transfers, in exchange for an item of value,

~~(1) a human organ for use in human organ transplantation or~~
~~(2) fetal tissue;~~

commits unlawful transfer of human ~~tissue~~, **organs**, a Level 5 felony.

SECTION 30. IC 35-46-5-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1.5. (a) As used in this section, **"aborted" means the termination of human pregnancy with an intention other than to produce a live birth or to remove a dead fetus. The term includes abortions by surgical procedures and by abortion inducing drugs.**

(b) As used in this section, **"fetal tissue" includes tissue, organs, or any other part of an aborted fetus.**

(c) This section does not apply to the proper medical disposal of fetal tissue.

(d) A person who intentionally acquires, receives, sells, or transfers fetal tissue commits unlawful transfer of fetal tissue, a Level 5 felony.

(e) A person may not alter the timing, method, or procedure used to terminate a pregnancy for the purpose of obtaining or



1 **collecting fetal tissue. A person who violates this subsection**
 2 **commits the unlawful collection of fetal tissue, a Level 5 felony.**

3 SECTION 31. IC 35-46-5-3, AS AMENDED BY P.L.158-2013,
 4 SECTION 572, IS AMENDED TO READ AS FOLLOWS
 5 [EFFECTIVE JULY 1, 2016]: Sec. 3. **(a) As used in this section,**
 6 **"lethal fetal anomaly" means a fetal condition diagnosed before**
 7 **birth that, if the pregnancy results in a live birth, will with**
 8 **reasonable certainty result in the death of the child not more than**
 9 **three (3) months after the child's birth.**

10 ~~(a)~~ **(b)** As used in this section, "qualified third party" means a
 11 fertility clinic or similar medical facility that:

- 12 (1) is accredited by an entity approved by the medical licensing
- 13 board;
- 14 (2) is registered under 21 CFR 1271 with the United States Food
- 15 and Drug Administration; and
- 16 (3) employs a physician licensed under IC 25-22.5 who:
- 17 (A) is board certified in obstetrics and gynecology; and
- 18 (B) performs oocyte cryopreservation at the facility.

19 ~~(b)~~ **(c)** A person who knowingly or intentionally purchases or sells
 20 a human ovum, zygote, embryo, or fetus commits unlawful transfer of
 21 a human organism, a Level 5 felony.

22 ~~(c)~~ **(d)** This section does not apply to the following:

- 23 (1) The transfer to or receipt by either a woman donor of an ovum
- 24 or a qualified third party of an amount for:
- 25 (A) earnings lost due to absence from employment;
- 26 (B) travel expenses;
- 27 (C) hospital expenses;
- 28 (D) medical expenses; and
- 29 (E) recovery time in an amount not to exceed four thousand
- 30 dollars (\$4,000);

31 concerning a treatment or procedure to enhance human
 32 reproductive capability through in vitro fertilization, gamete
 33 intrafallopian transfer, or zygote intrafallopian transfer.

34 (2) The following types of stem cell research:

- 35 (A) Adult stem cell.
- 36 (B) Fetal stem cell (as defined in IC 16-18-2-128.5), as long as
- 37 the biological parent has given written consent for the use of
- 38 the fetal stem cells.

39 **(3) The transfer or receipt of a fetus if:**

- 40 **(A) the fetus was diagnosed with a lethal fetal anomaly and**
- 41 **written medical documentation verifies the diagnosis; and**
- 42 **(B) a biological parent has requested, in writing, the**



1 **transfer of the fetus for purposes of an autopsy.**

2 ~~(d)~~ **(e)** Any person who recklessly, knowingly, or intentionally uses
3 a human embryo created with an ovum provided to a qualified third
4 party under this section for purposes of embryonic stem cell research
5 commits unlawful use of an embryo, a Level 5 felony.

6 SECTION 32. IC 35-52-16-22, AS ADDED BY P.L.169-2014,
7 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2016]: Sec. 22. IC 16-34-2-6 defines ~~a crime~~ **crimes**
9 concerning abortion.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, to which was referred House Bill 1337, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Replace the effective dates in SECTIONS 1 through 7 with "[EFFECTIVE JULY 1, 2016]".

Replace the effective date in SECTION 9 with "[EFFECTIVE JULY 1, 2016]".

Replace the effective dates in SECTIONS 11 through 17 with "[EFFECTIVE JULY 1, 2016]".

Page 2, line 19, delete "," and insert ";".

Page 2, line 19, delete "including the".

Page 2, delete line 20.

Page 2, delete lines 34 through 42, begin a new paragraph and insert:

"SECTION 5. IC 16-21-11-6, AS ADDED BY P.L.127-2014, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) If the parent or parents choose a ~~means of location of~~ final disposition other than the ~~means location~~ of final disposition that is usual and customary for the health care facility, the parent or parents are responsible for the costs related to the final disposition of the fetus **at the chosen location.**

(b) ~~If the parent or parents choose a means of final disposition that provides for the interment of a miscarried fetus who has a gestational age of at least twenty (20) weeks of age; A health care facility having possession of a miscarried fetus shall provide for the final disposition of the miscarried fetus.~~ The requirements under IC 16-37-3 apply **to the final disposition of the miscarried fetus, which must be cremated or interred. However, any information submitted under this section that may be used to identify the parent or parents is confidential and must be redacted from any public records maintained under IC 16-37-3.**

(c) ~~Notwithstanding any other law, the parent or parents whose miscarried fetus has a gestational age of less than twenty (20) weeks of age may choose a means of final disposition that provides for the cremation or the interment of the miscarried fetus. If the parent or parents choose the cremation or interment of the miscarried fetus, The local health officer shall provide the person in charge of interment with a permit for the disposition of the body. A certificate of stillbirth is not required to be issued for a final disposition under this subsection. of a~~



miscarried fetus having a gestational age of less than twenty (20) weeks.

(d) IC 23-14-31-26, IC 23-14-55-2, IC 25-15-9-18, and IC 29-2-19-17 concerning the authorization of disposition of human remains apply to this section."

Page 3, delete lines 1 through 18.

Page 5, line 20, delete "," and insert ".".

Page 5, line 20, delete "including the right to take possession of the remains".

Page 5, delete line 21.

Page 7, delete lines 36 through 42.

Delete page 8.

Page 9, delete lines 1 through 32.

Page 10, delete lines 34 through 41, begin a new paragraph and insert:

"SECTION 11. IC 16-34-3-3, AS ADDED BY P.L.113-2015, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. If the pregnant woman chooses a ~~means~~ **location** for final disposition ~~that is not required by law or by rule of other than the location of final disposition that is usual and customary~~ for an abortion clinic or a health care facility, the pregnant woman is responsible for the costs related to the final disposition of the aborted fetus **at the chosen location**."

Page 11, line 7, after "." insert "**However, any information submitted under this section that may be used to identify the pregnant woman is confidential and must be redacted from any public records maintained under IC 16-37-3.**".

Page 12, delete lines 33 through 37, begin a new paragraph and insert:

"(b) Within ten (10) business days after a miscarriage occurs or an abortion is performed, a person or facility described in subsection (a) shall:

(1) conduct the final disposition of a miscarried fetus or an aborted fetus in the manner required by IC 16-21-11-6 or IC 16-34-3-4; or



(2) ensure that the miscarried fetus or aborted fetus is preserved until final disposition under IC 16-21-11-6 or IC 16-34-3-4 occurs."

Page 12, delete line 42.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1337 as introduced.)

DERMODY

Committee Vote: yeas 9, nays 4.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1337 be amended to read as follows:

Replace the effective date in SECTION 5 with "[EFFECTIVE JULY 1, 2016]".

Replace the effective date in SECTION 11 with "[EFFECTIVE JULY 1, 2016]".

(Reference is to HB 1337 as printed January 29, 2016.)

COX

COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred House Bill No. 1337, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, between lines 1 and 2, begin a new paragraph and insert:

"SECTION 2. IC 16-18-2-18.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 18.5. "Any other disability", for purposes of IC 16-34, has the meaning set forth in IC 16-34-4-1.**

SECTION 3. IC 16-18-2-100.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 100.5. "Down syndrome", for**

EH 1337—LS 7081/DI 92



purposes of IC 16-34, has the meaning set forth in IC 16-34-4-2."

Page 2, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 5. IC 16-18-2-201.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2016]: **Sec. 201.5. "Lethal fetal anomaly", for purposes of IC 16-25-4.5 and IC 16-34, has the meaning set forth in IC 16-25-4.5-2."**

Page 2, between lines 11 and 12, begin a new paragraph and insert:

"SECTION 7. IC 16-18-2-273.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2016]: **Sec. 273.5. "Perinatal hospice", for purposes of IC 16-25-4.5 and IC 16-34, has the meaning set forth in IC 16-25-4.5-3.**

SECTION 8. IC 16-18-2-287.9 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2016]: **Sec. 287.9. "Potential diagnosis", for purposes of IC 16-34, has the meaning set forth in IC 16-34-4-3.**

SECTION 9. IC 16-18-2-328.6 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2016]: **Sec. 328.6. "Sex selective abortion", for purposes of IC 16-34-4, has the meaning set forth in IC 16-34-4-4."**

Page 3, line 2, after "The" insert **"burial transit permit"**.

Page 3, line 4, delete "However," and insert **"However:**

- (1) a person is not required to designate a name for the miscarried fetus on the burial transit permit and the space for a name may remain blank; and**
- (2)".**

Page 3, between lines 7 and 8, begin a new line blocked left and insert:

"Miscarried fetuses may be cremated by simultaneous cremation."

Page 3, between lines 20 and 21, begin a new paragraph and insert:

"SECTION 12. IC 16-25-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW CHAPTER TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2016]:

Chapter 4.5. Perinatal Hospice

Sec. 1. The purpose of this chapter is to ensure that:

- (1) women considering abortion after receiving a diagnosis of a lethal fetal anomaly are informed of the availability of perinatal hospice care; and**
- (2) women choosing abortion after receiving a diagnosis of a lethal fetal anomaly are making a fully informed decision.**



Sec. 2. As used in this chapter, "lethal fetal anomaly" means a fetal condition diagnosed before birth that, if the pregnancy results in a live birth, will with reasonable certainty result in the death of the child not more than three (3) months after the child's birth.

Sec. 3. As used in this chapter, "perinatal hospice" means the provision of comprehensive, supportive care to a pregnant woman and her family beginning with the diagnosis of a lethal fetal anomaly and continuing through the live birth and death of the woman's child as a result of the lethal fetal anomaly. The term includes counseling and medical care provided by maternal-fetal medical specialists, obstetricians, neonatologists, anesthesia specialists, specialty nurses, clergy, social workers, and others that are focused on alleviating fear and ensuring that the woman and her family experience the life and death of the child in a comfortable and supportive environment.

Sec. 4. (a) The state department shall develop a perinatal hospice brochure and post the perinatal hospice brochure on the state department's Internet web site.

(b) The perinatal brochure developed under this section must include the following:

- (1)** A description of the health care and other services available from perinatal hospice.
- (2)** Information that medical assistance benefits may be available for prenatal care, childbirth, and perinatal hospice.
- (3)** Information regarding telephone 211 dialing code services for accessing grief counseling and other human services as described in IC 8-1-19.5, and the types of services that are available through this service.

Sec. 5. The state department shall develop and regularly update a list of all perinatal hospice providers and programs in Indiana. The state department may include on the list perinatal hospice providers and programs in other states that provide care to Indiana residents. The state department shall post the list of perinatal hospice providers and programs on the state department's Internet web site.

Sec. 6. (a) The state department shall develop a form on which a pregnant woman certifies, at the time of receiving a diagnosis that the pregnant woman's unborn child has a lethal fetal anomaly, that the pregnant woman has received the following:

- (1)** A copy of the perinatal hospice brochure developed under this chapter.
- (2)** A list of the perinatal hospice providers and programs



developed under section 5 of this chapter.

(b) The provider diagnosing the pregnant woman's unborn child with the lethal fetal anomaly shall, at the time of diagnosis:

(1) provide the pregnant woman with a written copy of:

(A) the perinatal brochure developed under this chapter; and

(B) the certification form developed by the state department under subsection (a); and

(2) have the pregnant woman complete the certification form.

Sec. 7. This chapter is severable as specified in IC 1-1-1-8.

SECTION 13. IC 16-34-2-1, AS AMENDED BY P.L.136-2013, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. (a) Abortion shall in all instances be a criminal act, except when performed under the following circumstances:

(1) **Except as prohibited in IC 16-34-4**, during the first trimester of pregnancy for reasons based upon the professional, medical judgment of the pregnant woman's physician if:

(A) the abortion is performed by the physician;

(B) the woman submitting to the abortion has filed her consent with her physician. However, if in the judgment of the physician the abortion is necessary to preserve the life of the woman, her consent is not required; and

(C) the woman submitting to the abortion has filed with her physician the written consent of her parent or legal guardian if required under section 4 of this chapter.

However, an abortion inducing drug may not be dispensed, prescribed, administered, or otherwise given to a pregnant woman after nine (9) weeks of postfertilization age unless the Food and Drug Administration has approved the abortion inducing drug to be used for abortions later than nine (9) weeks of postfertilization age. A physician shall examine a pregnant woman in person before prescribing or dispensing an abortion inducing drug. As used in this subdivision, "in person" does not include the use of telehealth or telemedicine services.

(2) **Except as prohibited by IC 16-34-4**, for an abortion performed by a surgical procedure, after the first trimester of pregnancy and before the earlier of viability of the fetus or twenty (20) weeks of postfertilization age, for reasons based upon the professional, medical judgment of the pregnant woman's physician if:

(A) all the circumstances and provisions required for legal abortion during the first trimester are present and adhered to;



and

(B) the abortion is performed in a hospital or ambulatory outpatient surgical center (as defined in IC 16-18-2-14).

(3) Except as provided in subsection (b) **or as prohibited by IC 16-34-4**, and for an abortion performed by a surgical procedure, at the earlier of viability of the fetus or twenty (20) weeks of postfertilization age and any time after, for reasons based upon the professional, medical judgment of the pregnant woman's physician if:

(A) all the circumstances and provisions required for legal abortion before the earlier of viability of the fetus or twenty (20) weeks of postfertilization age are present and adhered to;

(B) the abortion is performed in compliance with section 3 of this chapter; and

(C) before the abortion the attending physician shall certify in writing to the hospital in which the abortion is to be performed, that in the attending physician's professional, medical judgment, after proper examination and review of the woman's history, the abortion is necessary to prevent a substantial permanent impairment of the life or physical health of the pregnant woman. All facts and reasons supporting the certification shall be set forth by the physician in writing and attached to the certificate.

(b) A person may not knowingly or intentionally perform a partial birth abortion unless a physician reasonably believes that:

(1) performing the partial birth abortion is necessary to save the mother's life; and

(2) no other medical procedure is sufficient to save the mother's life."

Page 3, line 23, reset in roman "(a)".

Page 4, between lines 34 and 35, begin a new line double block indented and insert:

"(K) That Indiana does not allow a fetus to be aborted solely because of the fetus's race, color, national origin, ancestry, sex, or diagnosis or potential diagnosis of the fetus having Down syndrome or any other disability."

Page 6, between lines 35 and 36, begin a new paragraph and insert:

"(b) This subsection applies to a pregnant woman whose unborn child has been diagnosed with a lethal fetal anomaly. The requirements of this subsection are in addition to the other requirements of this section. At least eighteen (18) hours before an



abortion is performed on the pregnant woman, the physician who will perform the abortion shall:

- (1) orally and in person, inform the pregnant woman of the availability of perinatal hospice services; and**
- (2) provide the pregnant woman copies of the perinatal hospice brochure developed by the state department under IC 16-25-4.5-4 and the list of perinatal hospice providers and programs developed under IC 16-25-4.5-5, by printing the perinatal hospice brochure and list of perinatal hospice providers from the state department's Internet web site.**

(c) If a pregnant woman described in subsection (b) chooses to have an abortion rather than continuing the pregnancy in perinatal hospice care, the pregnant woman shall certify in writing, on a form developed by the state department under IC 16-25-4.5-6, at least eighteen (18) hours before the abortion is performed, that the pregnant woman has been provided the information described in subsection (b) in the manner required by subsection (b)."

Page 7, between lines 36 and 37, begin a new paragraph and insert:

"SECTION 15. IC 16-34-2-5, AS AMENDED BY P.L.92-2015, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 5. (a) Every health care provider who performs a surgical abortion or provides, prescribes, administers, or dispenses an abortion inducing drug for the purposes of inducing an abortion shall report the performance of the abortion or the provision, prescribing, administration, or dispensing of an abortion inducing drug on a form drafted by the state department, the purpose and function of which shall be the improvement of maternal health and life through the compilation of relevant maternal life and health factors and data, and a further purpose and function shall be to monitor all abortions performed in Indiana to assure the abortions are done only under the authorized provisions of the law. For each abortion performed and abortion inducing drug provided, prescribed, administered, or dispensed, the report shall include, among other things, the following:

- (1) The age of the patient.
- (2) The date and location the abortion was performed or the abortion inducing drug was provided, prescribed, administered, or dispensed.
- (3) The health care provider's full name and address, including the name of the physicians performing the abortion or providing, prescribing, administering, or dispensing the abortion inducing drug.
- (4) The name of the father if known.



(5) The age of the father, or the approximate age of the father if the father's age is unknown.

(6) **The following information concerning the abortion or the provision, prescribing, administration, or dispensing of the abortion inducing drug:**

(A) **The postfertilization age of the fetus.**

(B) **The manner in which the postfertilization age was determined. and,**

(C) **The gender of the fetus, if detectable.**

(D) **Whether the fetus has been diagnosed with or has a potential diagnosis of having Down syndrome or any other disability.**

(E) **If after the earlier of the time the fetus obtains viability or the time the postfertilization age of the fetus is at least twenty (20) weeks, the medical reason for the performance of the abortion or the provision, prescribing, administration, or dispensing of the abortion inducing drug.**

(7) **For a surgical abortion, the medical procedure used for the abortion and, if the fetus was viable or had a postfertilization age of at least twenty (20) weeks:**

(A) **whether the procedure, in the reasonable judgment of the health care provider, gave the fetus the best opportunity to survive; and**

(B) **the basis for the determination that the pregnant woman had a condition described in this chapter that required the abortion to avert the death of or serious impairment to the pregnant woman.**

(8) **For a nonsurgical abortion, the precise drugs provided, prescribed, administered, or dispensed, and the means of delivery of the drugs to the patient.**

(9) For an early pre-viability termination, the medical indication by diagnosis code for the fetus and the mother.

~~(9)~~ (10) **The mother's obstetrical history, including dates of other abortions, if any.**

~~(10)~~ (11) **The results of pathological examinations if performed.**

~~(11)~~ (12) **For a surgical abortion, whether the fetus was delivered alive, and if so, how long the fetus lived.**

~~(12)~~ (13) **Records of all maternal deaths occurring at the location where the abortion was performed or the abortion inducing drug was provided, prescribed, administered, or dispensed.**

~~(13)~~ (14) **The date the form was transmitted to the state department and, if applicable, separately to the department of**



child services.

(b) The health care provider shall complete the form provided for in subsection (a) and shall transmit the completed form to the state department, in the manner specified on the form, not later than July 30 for each abortion occurring in the first six (6) months of that year and not later than January 30 for each abortion occurring in the last six (6) months of the preceding year. However, if an abortion is for a female who is less than fourteen (14) years of age, the health care provider shall transmit the form to the state department of health and separately to the department of child services within three (3) days after the abortion is performed.

(c) The dates supplied on the form may not be redacted for any reason before the form is transmitted as provided in this section.

(d) Each failure to complete or timely transmit a form, as required under this section, for each abortion performed or abortion inducing drug that was provided, prescribed, administered, or dispensed, is a Class B misdemeanor.

(e) Not later than June 30 of each year, the state department shall compile a public report providing the following:

- (1) Statistics for the previous calendar year from the information submitted under this section.
- (2) Statistics for previous calendar years compiled by the state department under this subsection, with updated information for the calendar year that was submitted to the state department after the compilation of the statistics.

The state department shall ensure that no identifying information of a pregnant woman is contained in the report."

Page 9, line 8, after "The" insert "**burial transit permit**".

Page 9, line 11, delete "However," and insert "**However:**

(1) a person is not required to designate a name for the aborted fetus on the burial transit permit and the space for a name may remain blank; and

(2)".

Page 9, between lines 14 and 15, begin a new line blocked left and insert:

"Aborted fetuses may be cremated by simultaneous cremation."

Page 9, between lines 24 and 25, begin a new paragraph and insert:

"SECTION 20. IC 16-34-4 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]:

Chapter 4. Sex Selective and Disability Abortion Ban

Sec. 1. (a) As used in this chapter, "any other disability" means



any disease, defect, or disorder that is genetically inherited. The term includes the following:

- (1) A physical disability.
 - (2) A mental or intellectual disability.
 - (3) A physical disfigurement.
 - (4) Scoliosis.
 - (5) Dwarfism.
 - (6) Down syndrome.
 - (7) Albinism.
 - (8) Amelia.
 - (9) A physical or mental disease.
- (b) The term does not include a lethal fetal anomaly.

Sec. 2. As used in this chapter, "Down syndrome" means a chromosomal disorder associated with an extra chromosome 21 or an effective trisomy for chromosome 21.

Sec. 3. As used in this chapter, "potential diagnosis" refers to the presence of some risk factors that indicate that a health problem may occur.

Sec. 4. As used in this chapter, "sex selective abortion" means an abortion that is performed solely because of the sex of the fetus.

Sec. 5. (a) A person may not intentionally perform or attempt to perform an abortion before the earlier of viability of the fetus or twenty (20) weeks of postfertilization age if the person knows that the pregnant woman is seeking a sex selective abortion.

(b) A person may not intentionally perform or attempt to perform an abortion after viability of the fetus or twenty (20) weeks of postfertilization age if the person knows that the pregnant woman is seeking a sex selective abortion.

(c) This section is severable as specified in IC 1-1-1-8.

Sec. 6. (a) A person may not intentionally perform or attempt to perform an abortion before the earlier of viability of the fetus or twenty (20) weeks of postfertilization age if the person knows that the pregnant woman is seeking the abortion solely because the fetus has been diagnosed with Down syndrome or has a potential diagnosis of Down syndrome.

(b) A person may not intentionally perform or attempt to perform an abortion after viability of the fetus or twenty (20) weeks of postfertilization age if the person knows that the pregnant woman is seeking the abortion solely because the fetus has been diagnosed with Down syndrome or has a potential diagnosis of Down syndrome.

(c) This section is severable as specified in IC 1-1-1-8.



Sec. 7. (a) A person may not intentionally perform or attempt to perform an abortion before the earlier of viability of the fetus or twenty (20) weeks of postfertilization age if the person knows that the pregnant woman is seeking the abortion solely because the fetus has been diagnosed with any other disability or has a potential diagnosis of any other disability.

(b) A person may not intentionally perform or attempt to perform an abortion after viability of the fetus or twenty (20) weeks of postfertilization age if the person knows that the pregnant woman is seeking the abortion solely because the fetus has been diagnosed with any other disability or has a potential diagnosis of any other disability.

(c) This section is severable as specified in IC 1-1-1-8.

Sec. 8. (a) A person may not intentionally perform or attempt to perform an abortion before the earlier of viability of the fetus or twenty (20) weeks of postfertilization age if the person knows that the pregnant woman is seeking the abortion solely because of the race, color, national origin, or ancestry of the fetus.

(b) A person may not intentionally perform or attempt to perform an abortion after viability of the fetus or twenty (20) weeks of postfertilization age if the person knows that the pregnant woman is seeking the abortion solely because of the race, color, national origin, or ancestry of the fetus.

(c) This section is severable as specified in IC 1-1-1-8.

Sec. 9. (a) A person who knowingly or intentionally performs an abortion in violation of this chapter may be subject to:

- (1) disciplinary sanctions under IC 25-1-9; and**
- (2) civil liability for wrongful death.**

(b) A pregnant woman upon whom an abortion is performed in violation of this chapter may not be prosecuted for violating or conspiring to violate this chapter."

Page 10, line 25, after "include" delete "a" and insert "**an aborted**".

Page 10, line 34, after "include" delete "a" and insert "**an aborted**".

Page 11, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 25. IC 22-9-1-3, AS AMENDED BY P.L.136-2014, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 3. As used in this chapter:

(a) "Person" means one (1) or more individuals, partnerships, associations, organizations, limited liability companies, corporations, labor organizations, cooperatives, legal representatives, trustees, trustees in bankruptcy, receivers, and other organized groups of persons.



(b) "Commission" means the civil rights commission created under section 4 of this chapter.

(c) "Director" means the director of the civil rights commission.

(d) "Deputy director" means the deputy director of the civil rights commission.

(e) "Commission attorney" means the deputy attorney general, such assistants of the attorney general as may be assigned to the commission, or such other attorney as may be engaged by the commission.

(f) "Consent agreement" means a formal agreement entered into in lieu of adjudication.

(g) "Affirmative action" means those acts that the commission determines necessary to assure compliance with the Indiana civil rights law.

(h) "Employer" means the state or any political or civil subdivision thereof and any person employing six (6) or more persons within the state, except that the term "employer" does not include:

- (1) any nonprofit corporation or association organized exclusively for fraternal or religious purposes;
- (2) any school, educational, or charitable religious institution owned or conducted by or affiliated with a church or religious institution; or
- (3) any exclusively social club, corporation, or association that is not organized for profit.

(i) "Employee" means any person employed by another for wages or salary. However, the term does not include any individual employed:

- (1) by the individual's parents, spouse, or child; or
- (2) in the domestic service of any person.

(j) "Labor organization" means any organization that exists for the purpose in whole or in part of collective bargaining or of dealing with employers concerning grievances, terms, or conditions of employment or for other mutual aid or protection in relation to employment.

(k) "Employment agency" means any person undertaking with or without compensation to procure, recruit, refer, or place employees.

(l) "Discriminatory practice" means:

- (1) the exclusion of a person from equal opportunities because of race, religion, color, sex, disability, national origin, ancestry, or status as a veteran;
- (2) a system that excludes persons from equal opportunities because of race, religion, color, sex, disability, national origin, ancestry, or status as a veteran;
- (3) the promotion of racial segregation or separation in any



manner, including but not limited to the inducing of or the attempting to induce for profit any person to sell or rent any dwelling by representations regarding the entry or prospective entry in the neighborhood of a person or persons of a particular race, religion, color, sex, disability, national origin, or ancestry;
or

(4) a violation of IC 22-9-5 that occurs after July 25, 1992, and is committed by a covered entity (as defined in IC 22-9-5-4);

(5) the performance of an abortion solely because of the race, color, sex, disability, national origin, or ancestry of the fetus;
or

(6) a violation of any of the following statutes protecting the right of conscience regarding abortion:

(A) IC 16-34-1-4.

(B) IC 16-34-1-5.

(C) IC 16-34-1-6.

Every discriminatory practice relating to the acquisition or sale of real estate, education, public accommodations, employment, or the extending of credit (as defined in IC 24-4.5-1-301.5) shall be considered unlawful unless it is specifically exempted by this chapter.

(m) "Public accommodation" means any establishment that caters or offers its services or facilities or goods to the general public.

(n) "Complainant" means:

- (1) any individual charging on the individual's own behalf to have been personally aggrieved by a discriminatory practice; or
- (2) the director or deputy director of the commission charging that a discriminatory practice was committed against a person (other than the director or deputy director) or a class of people, in order to vindicate the public policy of the state (as defined in section 2 of this chapter).

(o) "Complaint" means any written grievance that is:

- (1) sufficiently complete and filed by a complainant with the commission; or
- (2) filed by a complainant as a civil action in the circuit or superior court having jurisdiction in the county in which the alleged discriminatory practice occurred.

The original of any complaint filed under subdivision (1) shall be signed and verified by the complainant.

(p) "Sufficiently complete" refers to a complaint that includes:

- (1) the full name and address of the complainant;
- (2) the name and address of the respondent against whom the complaint is made;



- (3) the alleged discriminatory practice and a statement of particulars thereof;
- (4) the date or dates and places of the alleged discriminatory practice and if the alleged discriminatory practice is of a continuing nature the dates between which continuing acts of discrimination are alleged to have occurred; and
- (5) a statement as to any other action, civil or criminal, instituted in any other form based upon the same grievance alleged in the complaint, together with a statement as to the status or disposition of the other action.

No complaint shall be valid unless filed within one hundred eighty (180) days from the date of the occurrence of the alleged discriminatory practice.

(q) "Sex" as it applies to segregation or separation in this chapter applies to all types of employment, education, public accommodations, and housing. However:

- (1) it shall not be a discriminatory practice to maintain separate restrooms;
- (2) it shall not be an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or for an employer, labor organization, or joint labor management committee controlling apprenticeship or other training or retraining programs to admit or employ any other individual in any program on the basis of sex in those certain instances where sex is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise; and
- (3) it shall not be a discriminatory practice for a private or religious educational institution to continue to maintain and enforce a policy of admitting students of one (1) sex only.

(r) "Disabled" or "disability" means the physical or mental condition of a person that constitutes a substantial disability. In reference to employment under this chapter, "disabled or disability" also means the physical or mental condition of a person that constitutes a substantial disability unrelated to the person's ability to engage in a particular occupation.

(s) "Veteran" means:

- (1) a veteran of the armed forces of the United States;
- (2) a member of the Indiana National Guard; or
- (3) a member of a reserve component.



SECTION 26. IC 23-14-31-39 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 39. (a) **Except as provided in IC 16-21-11-6 and IC 16-34-3-4**, a crematory authority shall not perform the simultaneous cremation of the human remains of more than one (1) individual within the same cremation chamber unless it has obtained the prior written consent of the authorizing agents.

(b) Subsection (a) does not prevent the simultaneous cremation within the same cremation chamber of body parts delivered to the crematory authority from multiple sources, or the use of cremation equipment that contains more than one (1) cremation chamber.

SECTION 27. IC 35-46-5-1, AS AMENDED BY P.L.158-2013, SECTION 570, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. ~~(a) As used in this section, "fetal tissue" means tissue from an infant or a fetus who is stillborn or aborted.~~

~~(b)~~ (a) As used in this section, "human organ" means the kidney, liver, heart, lung, cornea, eye, bone marrow, bone, pancreas, or skin of a human body.

~~(c)~~ (b) As used in this section, "item of value" means money, real estate, funeral related services, and personal property. "Item of value" does not include:

- (1) the reasonable payments associated with the removal, transportation, implantation, processing, preservation, quality control, and storage of a human organ; or
- (2) the reimbursement of travel, housing, lost wages, and other expenses incurred by the donor of a human organ related to the donation of the human organ.

~~(d)~~ (c) A person who intentionally acquires, receives, sells, or transfers, in exchange for an item of value,

- (1) a human organ for use in human organ transplantation ~~or~~
- (2) fetal tissue;

commits unlawful transfer of human ~~tissue~~; **organs**, a Level 5 felony.

SECTION 28. IC 35-46-5-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1.5. (a) As used in this section, "aborted" means the termination of human pregnancy with an intention other than to produce a live birth or to remove a dead fetus. The term includes abortions by surgical procedures and by abortion inducing drugs.

(b) As used in this section, "fetal tissue" includes tissue, organs, or any other part of an aborted fetus.



(c) This section does not apply to the proper medical disposal of fetal tissue.

(d) A person who intentionally acquires, receives, sells, or transfers fetal tissue commits unlawful transfer of fetal tissue, a Level 5 felony.

(e) A person may not alter the timing, method, or procedure used to terminate a pregnancy for the purpose of obtaining or collecting fetal tissue. A person who violates this subsection commits the unlawful collection of fetal tissue, a Level 5 felony.

SECTION 29. IC 35-46-5-3, AS AMENDED BY P.L.158-2013, SECTION 572, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 3. **(a) As used in this section, "lethal fetal anomaly" means a fetal condition diagnosed before birth that, if the pregnancy results in a live birth, will with reasonable certainty result in the death of the child not more than three (3) months after the child's birth.**

~~(a)~~ **(b)** As used in this section, "qualified third party" means a fertility clinic or similar medical facility that:

- (1) is accredited by an entity approved by the medical licensing board;
- (2) is registered under 21 CFR 1271 with the United States Food and Drug Administration; and
- (3) employs a physician licensed under IC 25-22.5 who:
 - (A) is board certified in obstetrics and gynecology; and
 - (B) performs oocyte cryopreservation at the facility.

~~(b)~~ **(c)** A person who knowingly or intentionally purchases or sells a human ovum, zygote, embryo, or fetus commits unlawful transfer of a human organism, a Level 5 felony.

~~(c)~~ **(d)** This section does not apply to the following:

- (1) The transfer to or receipt by either a woman donor of an ovum or a qualified third party of an amount for:
 - (A) earnings lost due to absence from employment;
 - (B) travel expenses;
 - (C) hospital expenses;
 - (D) medical expenses; and
 - (E) recovery time in an amount not to exceed four thousand dollars (\$4,000);
 concerning a treatment or procedure to enhance human reproductive capability through in vitro fertilization, gamete intrafallopian transfer, or zygote intrafallopian transfer.
- (2) The following types of stem cell research:
 - (A) Adult stem cell.



(B) Fetal stem cell (as defined in IC 16-18-2-128.5), as long as the biological parent has given written consent for the use of the fetal stem cells.

(3) The transfer or receipt of a fetus if:

(A) the fetus was diagnosed with a lethal fetal anomaly and written medical documentation verifies the diagnosis; and

(B) a biological parent has requested, in writing, the transfer of the fetus for purposes of an autopsy.

~~(d)~~ (e) Any person who recklessly, knowingly, or intentionally uses a human embryo created with an ovum provided to a qualified third party under this section for purposes of embryonic stem cell research commits unlawful use of an embryo, a Level 5 felony."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1337 as reprinted February 2, 2016.)

MILLER PATRICIA, Chairperson

Committee Vote: Yeas 6, Nays 3.

